

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

SAU 24

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43 V unpaid employee expenses

Date of Hearing: May 14, 2015

Case No.: 49877

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserted, through the filing of her wage claim, that she was owed \$316.84 in unreimbursed hotel and food expenses for a pre-approved conference. She argued she was due an additional \$75.19 in interest for carrying the expenses on her credit card.

At the hearing, she amended the claim for unreimbursed employee expenses to \$328.47 due to a math error.

The employer denies the claimant is due any further reimbursements. The claimant stayed an extra night at the conference, October 30, 2014, and did not attend the scheduled pre-conference. She did not provide the proper itemized receipts for the reimbursement of food. Further, she submitted greater than the \$50.00 cap for receipts each day.

FINDINGS OF FACT

The claimant has been working for the employer for eleven years and is still a current employee.

The claimant argues she and two colleagues received pre-approval from the employer to attend the Association for Supervision & Curriculum Development Conference in Florida to earn certification hours. The requested dates off for the conference were October 29 through 31, 2014. The conference continued on Saturday November 1 and Sunday November 2, 2014.

The claimant argues the employer has not reimbursed her for \$125.00 in hotel reimbursements, \$203.47 in food reimbursements and \$75.19 in credit card interest as she carried the balance for the unreimbursed expenses on her credit card.

RSA 275:49 III requires that the employer make available to employees in writing, or through a posted notice maintained in an accessible place, employment practices and policies regarding fringe benefits, including expense reimbursements. Lab 803.03 (b) requires employers to provide his/her employees with a written or posted detailed description of employment practices and policies as they pertain to paid vacations, holidays, sick leave, bonuses, severance pay, personal days, payment of the employees expenses, pension and all other fringe benefits per RSA 275: 49. Lab 803.03 (f) (6) requires an employer maintain on file a signed copy of the notification.

The employer did present a written policy regarding employee reimbursement requirements. The written policy had been distributed to the principals of the schools who were charged with disseminating to all staff. However, the employer acknowledged that she did not have proof that the claimant had seen the documentation.

The claimant presented credible testimony she had not seen the written policy regarding reimbursements. However, the claimant did acknowledge she was aware that the employer had a \$50.00 daily limit on food purchases pursuant to an October 1, 2014, email from the employer, and that she was required to present receipts for the food. She believed she only needed to submit a copy of the receipt which showed the total bill and any gratuity added, not the itemized receipt.

On October 28, 2014, the claimant and her colleagues discovered they had not been registered for the pre-conference meetings on October 30, 2014, and it would require an additional charge of \$200 or \$250 per person to attend. They decided amongst themselves to skip the pre-conference. They did not consult with the employer regarding the issue of registration for this day and any consequences for failure to attend the scheduled meetings. The claimant did not disclose to the employer that she did not attend the pre-conference until questioned after her return.

The claimant and her colleagues checked into the hotel on October 29, 2014. On October 30, 2014, they attended a welcome breakfast and registered for the conference. They did not attend the pre-conference and attended to personal activities for the balance of the day.

The claimant could have registered for the pre-conference on October 30, 2014, as there were available slots. She chose not to do so as she believed she would have to "front" the cost of \$200 or \$250.

The claimant and her colleagues attended the conference for the remainder of the scheduled time of October 31 through November 2, 2014.

The claimant submitted her receipts from the trip to the employer upon her return. On November 18, 2014, the employer asked for itemized receipts. The claimant responded she had sent all of the receipts that she had. The claimant did not know there were any issues with her receipts or the expected reimbursements.

The employer only paid for three of the four nights as the claimant chose not to attend the pre-conference on October 30, 2014. As a courtesy, they paid the three most

expensive nights of the hotel cost, and as an error they paid the fees associated with the fourth night's accommodations. The claimant argues the fourth night's accommodation of \$125.00 is due to her.

The employer argues they are not responsible to reimburse the claimant for the fourth night's stay as she did not attend the pre-conference as had been scheduled and she did not consult with anyone from the employer. The employer could have provided immediate payment arrangements for the pre-conference and spots were available for the pre-conference. As a result, the claimant attended to personal activities for the day and not activities for the conference.

The employer notified the claimant that she was preapproved for expenses related to the conference with attendance dates of October 30, 2014 through November 2, 2014. The claimant did not attend the pre-conference on October 30, 2014. The claimant was aware she had not been registered for the pre-conference prior to her departure. She made no attempts to contact the employer for payment or discuss any consequences for failing to attend. She also made no effort to notify the employer she did not attend the pre-conference on October 30, 2014. The employer questioned her because of the time of day she purchased food pursuant to the submitted receipts, at which time she admitted she had not attended that day.

The claimant has the burden of proof in this matter to show, by a preponderance of the evidence, that she is owed the claimed employee expenses and that she participated in activities for which she had received preapproval for expenses. The Hearing Officer finds the claimant failed to prove by a preponderance of the evidence she is due the claimed hotel/employee expenses.

The claimant argues she is due \$203.47 in unreimbursed food expenses. Though she was aware of the \$50.00 per day cap, she assumed the employer would average out the food expenses over the course of the trip and reimburse her the total of \$250 for the five days. She further argues the employer did not notify her that itemized receipts were required for reimbursement. The claimant attested multiple times that no alcohol had been purchased.

The employer argues they need to have itemized receipts to prove that no alcohol had been purchased with grant funds or district funds. The claimant had traveled to a conference several years ago and had been fully reimbursed as she had submitted the appropriate itemized receipts. Further, it is their practice to obtain itemized receipts as they are required to show that only food is purchased and no alcohol is reimbursed with grant funds or district funds.

The claimant submitted itemized food receipts in the total of \$69.03. The employer reimbursed the claimant \$58.87 as they chose not to reimburse \$10.16 incurred on October 30, 2014, because the claimant did not attend the pre-conference scheduled for that day.

The employer notified the claimant in writing, via email on October 1, 2014, that they have a daily "\$50.00 meal allowance."

The Hearing Officer specifically asked the claimant if she would like the opportunity to contact the establishments to obtain itemized receipts. The claimant first

answered, "I could try" and then, "No, I believe I should have been furnished with the policy before and I would have done what I was supposed to do."

The claimant's argument that she did not know itemized receipts were required is not persuasive. The claimant provided receipts that show payments to establishments which appear to be restaurants and show a gratuity. However, these receipts are for payments made and do not show the purchases made to prove that the bill is exclusively for food and not non-food items. She declined the opportunity to attempt to obtain the receipts showing food item purchases.

The claimant's argument that she thought the employer would average out the food expenses over the course of the trip and reimburse her the total of \$250 for the five days is also not persuasive as she was aware of the \$50.00 daily cap on food expenses.

The employer provided pre-approval for the dates the claimant would attend the conference. As she did not attend the pre-conference for October 30, 2014, the employer did not pay for any meals purchased on that date.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence that she is due the claimed food expenses under the policy and practice of the employer.

The claimant asserted she was due \$75.19 in reimbursement for her credit card interest as she has been carrying these unreimbursed expenses and expenses which were reimbursed late on her credit card.

The claimant made no argument regarding this issue.

There is simply no statutory authority to award credit card interest because the claimant chose to carry employee expenses on her credit card.

The Hearing Officer finds the claimant failed to prove by a preponderance of the evidence that she is due the claimed employee expenses for the interest charged by her credit card company.

DISCUSSION

The claimant has the burden of proof in these matters to provide proof by a preponderance of evidence that her assertions are true.

Pursuant to Lab 202.05 "Proof by a preponderance of evidence" means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

The Hearing Officer finds the claimant failed to meet her burden in this claim.

DECISION

Based on the testimony and evidence presented, as RSA 275:43 I requires that an employer pay all wages due an employee, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that she is owed the employee expenses, it is hereby ruled that the Wage Claim is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: June 10, 2015

MJD/kdc